

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

IN RE:

Chapter 13

Wayne A. Dang, Debtor

Case No. 10-50226

Alana J. Dang, Debtor

MOTION TO QUASH GARNISHMENT

Come now your applicants, Wayne A. Dang and Alana J. Dang by counsel, pursuant to Bankruptcy Code §362 (a), and respectfully represents:

1. That your applicant has filed their petition for relief under Chapter 7 of Title 11 of the United States Code;
2. That your applicants are subject to a garnishment issued by the General District Court of Richmond, Virginia, John Marshall Courts Building, 2nd Floor, 400 N. 9th St., Room 203, Richmond, VA 23219-1546 within 90 days of the filing of the above-named petition;
3. That said garnishment is in favor of Capital One Bank (USA) N.A. PO Box 85168, Richmond, VA 23286-8114 and has a return date of March 4, 2010, and the first withholding was made by Wachovia Bank N.A., 9000 Patterson Ave., Richmond, VIRGINIA 23229, on February 12, 2010.

WHEREFORE, your applicant prays that said garnishment be quashed and that they have such other and further relief as the nature of their case may require.

Copies hereof are directed by mail to the debtor, creditor, and debtor's bank, Wachovia Bank N.A.

DATE: March 3, 2010

Respectfully submitted,

/s/ Deanna Tubandt

By: Deanna Tubandt, Attorney for
Wayne A. Dang
2281 Valley Ave.
Winchester, VA 22601
(540) 450-3328
VA Bar 38130

GARNISHMENT SUMMONS

Commonwealth of Virginia Va. Code §§ 8.01-511, 8.01-512.3
City of Richmond-Civil Division 804-646-6461

THIRD PARTY SERVICE

The Marston Agency, Inc.
804-967-9300

General District Court

COURT NAME

John Marshall Courts Building, 2nd Flr, 400 N 9th St., Rm 203 Richmond, VA 23219-1546

COURT ADDRESS AND TELEPHONE NUMBER

TO ANY AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

TO THE GARNISHEE: You are hereby commanded to (1) file a written answer with this court, or (2) deliver payment to this court, or (3) appear before this court on the hearing date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of fieri facias, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations: (1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons. (2) You shall not be liable to the judgment creditor for any property not specified in this garnishment summons. (3) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply. (4) If the sums of money consist solely of direct deposited funds exempt under federal law such as Social Security, SSL, Veterans', Black Lung, and Railroad Retirement benefits, then the exemption shall apply.

If a garnishment summons is served on an employer having one thousand or more employees, then money to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commission or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

DATE OF ISSUANCE OF SUMMONS

CLERK

DATE AND TIME OF DELIVERY OF WRIT OF FIERI FACIAS TO SHERIFF IF DIFFERENT FROM DATE OF ISSUANCE OF THIS SUMMONS

TO GARNISHEE: On check or written answer, include return date, case number and judgment debtor's name. MAKE CHECK PAYABLE TO JUDGMENT CREDITOR AND DELIVER TO THE COURT.

WRIT OF FIERI FACIAS TO ANY AUTHORIZED OFFICER: You are commanded to execute this writ and to make from the intangible personal estate of the judgment debtor(s) the principal, interest, costs and attorney's fees, less credits, shown in the Garnishment Summons. You are further commanded to make your return to the clerk's office according to law.

Homestead Exemption Waived? ☐ yes ☐ no ☐ cannot be demanded

DATE OF ISSUANCE OF WRIT

CLERK

CASE DISPOSITION

I ORDER that

☐ the garnishee pay to the judgment creditor through the court \$ net of any credits.

☐ the case be DISMISSED.

☐

DATE ENTERED

JUDGE

CASE NO. 09-64357	
JUDGMENT CREDITOR'S NAME Capital One Bank (USA), N.A.	
PO Box 85168	
Richmond, VA 23286-8114	
1-888-567-2271	
JUDGMENT CREDITOR'S ATTORNEY'S NAME	
Fran Steinberger Court Agent	
1-888-567-2271 EXT: 453-8688	
JUDGMENT DEBTOR'S NAME (SERVE)	
DANG, WAYNE A	
504 PAGE ST	
BERRYVILLE, VA 22611 (Clarke County)	
586427284	
GARNISHEE'S NAME	
Wachovia Bank, N.A.	
9000 PATTERSON AVENUE	
RICHMOND, VA 23229 (HENRICO COUNTY)	
ATTN: BRANCH MANAGER	
ANY AND ALL ACCOUNTS	
12/02/2009	
DATE OF JUDGMENT	STATEMENT
\$6,129.82	Judgment Principal
0.00	Credits
849.57	Interest
51.00	Judgment Costs
0.00	Attorney's Fees
60.00	Garnishment Costs
7,090.39	TOTAL BALANCE DUE
The garnishee shall rely on this amount.	

HEARING DATE & TIME

3/4/2010

09:00 AM

GARNISHMENT SUMMONS

This is a garnishment against (check only one)
☐ the judgment debtor's wages, salary or other compensation.
☒ some other debt due or property of the judgment debtor, specifically,
287419758
8236

MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT

☐ Support
☐ 50% ☐ 55%
☐ 60% ☐ 65%
(if not specified, then 50%)
☐ state taxes, 100%

If none of the above are checked, then § 34-29(a) applies (a plain-language interpretation of this section is on the reverse of this GARNISHMENT SUMMONS).

\$
received by

JUDGMENT CREDITOR
☐ Judgment debtor present

DATE